

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

Lionel Harris,

Plaintiff,

v.

Case No. 2:16-cv-888

Aaron Sowers, et al.,

Defendants.

ORDER

Plaintiff Lionel Harris, an Ohio inmate formerly incarcerated at the Madison Correctional Institution ("MaCI"), filed the instant action pursuant to 42 U.S.C. §1983 against various MaCI employees, specifically, Mailroom Screeners Aaron Sowers, Jacob Hays, and Mary McCrary; Melanie Futz, a secretary/notary public; Lieutenant Julia Chamberlin; Financial Associate Supervisor Cynthia Ricker; and Cashier Michelle Lovette. Plaintiff alleged that the defendants violated his constitutional rights in connection with their handling of and alleged destruction or theft of his mail and that they retaliated against him for his use and attempted use of the prison grievance system. On July 19, 2019, defendants filed a second motion for summary judgment. On July 24, 2019, plaintiff filed a motion for partial summary judgment. On February 11, 2020, the magistrate judge issued a report and recommendation recommending that plaintiff's motion for partial summary judgment be denied, and that defendants' motion for summary judgment be granted in part and denied in part.

The report and recommendation advised the parties that objections to the report and recommendation were due within fourteen days, and that the failure to file objections to the

report and recommendation "will result in a waiver of the right to *de novo* review by the District Judge and waiver of the right to appeal the judgment of the District Court. Doc. 162, pp. 71-72. The time period for filing objections has expired, and no objections have been filed to the report and recommendation.

The court agrees with the recommendation of the magistrate judge, and hereby adopts the report and recommendation (Doc. 162). Plaintiff's motion for partial summary judgment (Doc. 142) is denied. Defendants' second motion for summary judgment (Doc. 139) is granted in part and denied in part. The defendants' second motion for summary judgment is granted as to:

- 1) First Cause of Action - denial of access to courts claim against Lovette and Ricker
- 2) Second Cause of Action - retaliation claim against Hays
- 3) Third Cause of Action - retaliation claim against McCrary
- 4) Fourth Cause of Action - retaliation claim against Ricker
- 5) Fifth Cause of Action - retaliation claim against Chamberlin
- 6) Sixth Cause of Action - retaliation claim against Sowers
- 7) Seventh Cause of Action - retaliation and denial of access to courts claims against Sowers
- 8) Eighth Cause of Action - denial of access to courts claim against Sowers

Defendant's motion for summary judgment is denied as to:

- 1) First Cause of Action - retaliation claim against Lovette and Ricker

2) Third Cause of Action - retaliation claim against Chamberlin

3) Seventh Cause of Action - retaliation and denial of access to courts claims against Fultz

4) Eighth Cause of Action - retaliation claim against Sowers

The remaining pending claims are: the retaliation claim against Lovette and Ricker (First Cause of Action); the retaliation claim against Chamberlin (Third Cause of Action); the retaliation and denial of access claims against Fultz (Seventh Cause of Action); the retaliation claim against Sowers (Eighth Cause of Action) and the equal protection claims against Hays and Sowers (Second, Seventh and Eighth Causes of Action).

Date: March 4, 2020

s/James L. Graham
James L. Graham
United States District Judge